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ABSTRACT

The document presents Federal government policies and programs for American Indians, and the history of the Federal government-Indian relationship. Topics discussed are: (1) land management and industrial development; (2) employment programs; (3) education; (4) welfare programs; (5) other Federal programs (housing, transportation, and public safety); and (6) the Bureau of Indian Affairs. Tables relating to the topics discussed are at the end of the document. (FF)

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FEDERAL POLICIES AND PROGRAMS FOR AMERICAN INDIANS

STAFF REPORT # 2
Albuquerque/Phoenix Hearings

U. S. Commission on Civil Rights
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I

HISTORICAL SUMMARY OF FEDERAL POLICY[1/]

In the early colonial period, the policies of various European colonizers toward the Indians differed. The French were primarily traders and, as such, were able to establish better relations with the Indians. The English, on the other hand, wanted lasting settlements and, therefore, posed a more serious threat for Indians.

English policy was a cautious blend of conscience, strategy and self-interest. Though there were many swindles, and much land speculation, official policy was to prevent the unauthorized appropriation of Indian lands. As early as 1656, land areas were set aside by some colonial governors for the exclusive use of Indians.

Official efforts to the contrary, unauthorized entry upon Indian land persisted and became a constant source of friction between the English and the Indians. The policies were not uniform and were often ineffectively enforced so that Indians were frequently cheated. Friction was encouraged by the French who lost no opportunity to stress the danger of continued English encroachment. However, with the defeat of the French and the surrender of Quebec, the English were left supreme.

Disturbed by the hostility of the Indians, the King of England issued a Royal Proclamation in 1793 that prohibited the granting of

land patents unless Indian title had been extinguished by purchase or treaty. The Proclamation also reserved for tribal use all lands west of the Appalachians. Thousands of settlers, however, violated that boundary during and after the American Revolution without regard for policy, agreement or treaty. 2/

The birth of the new Republic changed little for Indians. The Federal Government tried at the outset to follow the policy laid down by the English. It recognized Indian rights to lands they occupied and laid down the principle that Indian land could not be acquired without Indian consent.

The first of 370 Indian treaties to be negotiated during the next century was with the Delawares on September 17, 1778. This treaty held out the possibility that an Indian state might later be established as one of the United States, an option which never materialized.

The Northwest Ordinance of 1787 was important in establishing the framework for settlement beyond the Alleghanies and in shaping Indian policy. It stated that:

The utmost good faith shall always be observed toward Indians, their lands and property shall never be taken from them without their consent; and, in their property, rights and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made for preventing wrongs being done to them, and for preserving peace and friendship with them. 3/

However, recognition of Indian rights to occupy land until title was extinguished lawfully, rights spelled out in the numerous treaties as well as the Northwest Ordinance, soon became an awkward official policy. Many Indian tribes refused to make further cessions. Among those pressing for a change of policy was Andrew Jackson. In a letter to President Monroe, Jackson, who at that time was one of the Commissioners negotiating the purchase of Indian lands, said:

> I have long viewed treaties with the Indians as absurdity not to be reconciled to the principles of our Government. The Indians are subjects of the United States, inhabiting its territory and acknowledging its sovereignty, then is it not absurd for the sovereign to negotiate by treaty with the subject? 4/

Thirteen years later in 1830 Congress passed, and President Jackson signed, the Indian Removal Act, 5/ establishing a major change in policy. The purpose was to transfer Indian tribes across the Mississippi. In exchange and as part payment for the lands they had previously occupied, Indians were granted perpetual 6/ title to the territory west of the river, an area which then seemed far enough removed to obviate the danger of future conflict.

Removal of northern tribes presented little difficulty. Most tribes were small in number, had been weakened by years of conflict or had left voluntarily. But the southern tribes, known collectively

as the Five Civilized Tribes, resisted. Large and powerful, with permanent homes, farms and large herds of livestock, they were reluctant to move.[7/]

In many cases, removal was by force. Troops were sent into Alabama and Georgia to escort Indians to the newly constituted "permanent" Indian territory--what is now the State of Oklahoma.

But again, removal did not prevent future conflict. The annexation of Texas, acquisition of New Mexico and California, and the discovery of gold, brought a steady surge of white men through the last of the Indian country. For three decades after 1850, a series of sporadic wars broke out in the western plains and did not stop until Indians were effectively removed as a deterrent to westward expansion.

Until the late 1800's treatymaking was the basic policy of the United States. However, many agreed with Andrew Jackson in rejecting the treaty approach. Proponents of a tough Indian policy invariably based their arguments on the superior rights of civilized men. As in the case of the slaves, the necessary corollary was always added--that Indians were savages and could not be civilized. In 1872, Francis Walker, Commissioner of Indian Affairs, expressed it this way:

> There is no question of national dignity, be it remembered, involved in the treatment of savages by a civilized power. With wild men, as with beasts, the question whether in any given situation one shall fight, coax, or run, is a question of what is easiest and safest. 8/

Walker went on to add that no one would rejoice more heartily than he, when the last hostile tribe "becomes reduced to the condition of suppliants for charity." By the 1900's the perception of Indians as "savages" was replaced with policy which viewed Indians as "competent" or "incompetent". 9/

Although some officials did not consider it possible to civilize Indians, a "civilization fund" was established by Congress as early as 1819. Many hoped to assimilate the "savages" as quickly as possible. The Indians themselves were ambivalent toward these educational services.

On the one hand, in the late 1700's a Seneca chief asked the Government to "teach our children to read and write and our women to spin and weave." 10/ Subsequent treaties and directives assurred Indians of "the blessings of civilization." 11/

On the other hand, in the mid-1700's chiefs of the Six Nations were reported to tell the Virginian government:

> Several of our young people were formerly brought up at the colleges of the Northern Provinces; they were instructed in all your science; but when they came back to us, they were bad runners; ignorant of every means of living in the woods; unable to bear either cold or hunger; knew neither how to build a cabin, take a deer, or kill an enemy; spoke our language imperfectly; were therefore neither fit for hunters, warriors or counselors; they were totally good for nothing. 12/

Federal control of Indian education has, for the most part, continued to this day, despite the disenchantment of many Indians.

If treatymaking was the most realistic means of dealing with the Indians, it did not dispose of a dilemma, namely, the degree of sovereignty to be accorded Indian tribes. The treaties recognized and sustained the separate status of Indians, a status later confirmed by the courts, 13/ which described Indian tribes as "distinct, independent, political communities" with rights of self-government.

But these "independent communities" were of a special sort. In Cherokee Nation v. Georgia, 14/ the Supreme Court dismissed a contention that Indian tribes were foreign nations and described them as "domestic dependent nations" bearing a relationship to the Federal Government like that of a ward to a guardian. It was this double condition of sovereignty and wardship which in the view of some has plagued Federal policy up to the present.

One of the difficulties, by the mid-1800's, was that Indians still owned large tracts of land defined and protected by the obligations of treaty. And it was land that many settlers still coveted. In 1862, Caleb B. Smith, Secretary of the Interior observed:

> The rapid progress of civilization upon this continent will not permit the lands which are required for civilization to be surrendered to savage tribes for hunting grounds. Indeed, whatever may be the theory, the Government has always demanded the removal of the Indians when their lands were required for agricultural purposes by advancing settlements.[15]

Shortly before this time, in 1849, the Bureau of Indian Affairs has passed from military to civil control. The Bureau was often in conflict with military policy which emphasized Indian dependence on the Federal Government. With the appointment of Secretary Caleb Smith to the Department of the Interior. The position of Indians as "wards" of the Federal Government was reinforced.

Between 1867 and 1868, the Indian Peace Commission negotiated the last of the 370 Indian treaties. In 1871, Congress declared that thereafter no Indian nation or tribe "would be recognized as an independent power with whom the United States may contract by treaty."[16] This did not solve the problem. Colonies

of Indians remained strangers in a society dominated by the white man. It had been hoped by some throughout the years, that Indians would somehow become more "civilized." But the contrary seemed to happen. Pressed on every side, there reservations became islands of retreat (and sometimes confinement).

Twenty years of warfare followed the signing of the last treaty, before the last of the Indians were moved to reservations. Geronimo's surrender in the southwest in 1886 and the battle of Wounded Knee in South Dakota in 1890 marked the end of serious resistance to relocation policies. Then there occurred a gradual breakdown of Indian traditions with nothing to replace them. 17/

Native religions were discouraged, some ceremonies forbidden and Christian missionaries encouraged. The rations practice was begun and set the pattern for modern day special aids for Indians. The wardship approach continued and Indian dependency on the government prevailed.

In 1887, Congress passed the General Allotment Act. By that time, most Indian tribes were settled on lands outside the main streams of traffic, lands that had been reserved for them by treaty, executive order or acts of Congress. The strategy of the allotment approach (apart from the acquisition of more land) was to provide a new method to civilize Indians by breaking up the reservations and granting land to individuals on a systematic basis. As Carl Schurz, then Secretary of the Interior, argued: "The enjoyment and

pride of the individual ownership of property is one of the most effective civilizing agencies."

There were some who opposed the Act vehemently. They recognized that white men and Indians looked upon land differently. To the former, it was a merchantable quantity, something to be owned, developed and improved, bought and sold.

To Indians, however, land was an integral part of nature to be used to sustain those who lived on it. Land was the common possession of the tribe to be used for common purposes as long as common purposes remained. It was not susceptible, therefore, to ownership, or alienation by the individual.[18]

Despite these different concepts the Allotment Act was passed, authorizing the President to dispose of tribal lands in specific amounts. If Indians refused to take their allotments, the Government would select for them. Title to the allotted land would remain with the Government to be held in trust for 25 years or more at the discretion of the President. At the

end of this time, if an Indian were adjudged "competent," he would be given the land to use as he saw fit and he would also acquire full citizenship. However, before the first 25 years elapsed, the Burke Act (1906) permitted "competent" Indians to acquire ownerships at once. (Also, somewhat later, Congress passed the Indian Citizenship Act of 1924, granting citizenship to all Indians.) Surplus lands remaining after allotment were subject to purchase by the United States. 19/

The Allotment Act tended to increase Indians' dependence on government support. In many cases rental income was small, or sale funds soon exhausted, and Indians were forced to turn back to the government for assistance.

When the Allotment Act was passed in 1887, Indians owned about 140 million acres of land. In 1890, alone, some 17.4 million "surplus" acres--about one-seventh of all Indian land--were purchased by the Federal government under the Act's authority

and opened to non-Indian homesteaders.[20]

In the next 45 years, 90 million acres,[21] including some of the best grazing, farming, and forest lands, passed out of the collective or individual control of Indians. What had been intended as "civilizing" agent, produced generations of landless, impoverished Indians.

In 1928, the Meriam Report,[22] authorized by the Department of the Interior, found that most Indians were poor, ill-housed in bad health, backward, discontented and apathetic. A major cause, according to the report, lay in the Allotment Act and its swift across-the-board application to all tribes whether they were prepared for it or not.

By the early thirties Congressional recognition of the effects of the allotment brought the Indian Reorganization Act (IRA) of 1934.[23]

This act applied only to Indian tribes voting to accept it (192 of the 263 tribes did so.) It authorized the expenditure of $2 million a year for the purchase of land to be held in trust for Indians by the Federal Government and prohibited future allotments of Indian lands. It also provided for tribal government, tribal incorporation for credit and other business purposes, and preferential employment of Indians by the Indian Bureau.

In addition to the IRA, other significant legislation was passed. The Johnson-O'Malley Act of 1934 authorized the use of Federal funds to assist States and local school districts in educating Indian children in the public school system. The Indian Arts and Crafts Board was created in 1935 to revive an interest in native crafts and provide Indians with employment.

The IRA was a reversal of prior policy. During the next 20 years, 4 million acres of land were purchased by and for Indians, and steps were taken toward the economic stability of Indian communities.

The Indian Claims Commission was created in 1946 to permit Indians to file suits against the government.[24/] The Commission received a total of 852 claims in 370

petitions entered during the filing period. By 1966, about one-third of the claims had been adjudicated, and settlements exceeding $200 million made. In some instances, judgments resulted in distribution of funds to individuals. In other cases, tribal awards remained in tact and were used for community and economic development.[25/]

In the late 1940's the IRA came under congressional criticism, partly because of its mounting costs. As a consequence, Indian policy was again reversed, this time by House Concurrent Resolution 108, adopted on August 1, 1953.[26/] It provided that all Indian tribes "should be freed from Federal supervision and control and from all disabilities and limitations specifically applicable to Indians " and directed the Secretary of the Interior to recommend the necessary legislation piece-by-piece to "relinquish Federal trusteeship." (As a matter of fact termination originally known as withdrawal programming had already been initiated by the Bureau of Indian Affairs in 1950.)[27/]

In 1954, the Menominees of Wisconsin became the first tribe slated for termination of Federal trusteeship. Final termination of this tribe was effected by 1961. Other tribes, "terminated" by law during this period included the Klamaths, and Western Oregon Indians; two small bands in Utah; the Alabama-Coushattas of Texas; the Wyandottes and Ottawas of Oklahoma, and some rancherias throughout California.

Other legislation was also enacted to effectuate the termination policy.[28/] For example, Indian lands in three states and part of two others were brought under State civil and criminal jurisdiction by

an act in 1953. (This practice, while still authorized by Congressional authority, has been discontinued since the mid-sixties.)[29/] The transfer in 1954 of Indian Health programs to the Public Health Service of the Department of Health, Education and Welfare was related to the termination policies of the 1950's. In addition to the opportunity for more extensive health services, this transfer was directed toward bringing Indians more into the mainstream of services offered the general population.[30/] Finally, also during the fifties, and to some extent modified but still in effect, was legislation to relocate reservation Indians in urban areas for employment and education.

The policy of terminating Federal trusteeship and withdrawing Federal supervision over Indian affairs met with a largely negative reaction from the Indians themselves. One reason Indians opposed termination is that they feared the loss of tribal land, much as they lost land earlier under the Allotment Act. Between 1953 and 1957, more than a million and a half acres of Indian land were taken out of trust.[31/] It is estimated that practically all of this land was sold to non-Indians.[32/]

Termination is no longer the official policy of the Federal Government. In 1961 a Task Force report was submitted to the Secretary of the Interior. Recommending the abandonment of the

termination concept, the Task Force called for the establishment or expansion of loan funds to assist Indians in imporiving reservation programs and to attract new industry to reservations.[33]

By the mid-1960's the relocation program was re-named employment assistance and emphasized on or near reservation employment and training in addition to urban relocation assistance.[34]

Since the mid-1960's both President Johnson and President Nixon have reiterated a Federal policy of Indian self-government simultaneously with continued Federal support and assistance.[35] Significantly, more Federal assistance for Indians in the past five years, has been received from various agencies, administered in many cases by Indians themselves, rather than through centrally administered services offered through the Bureau of Indian Affairs and the Indian Health Services.

II

FEDERAL PROGRAMS
LAND MANAGEMENT AND INDUSTRIAL DEVELOPMENT [36]

Land Management. At times Federal policy has tended toward the preservation of tribal lands and cultures; at others, it has swung toward assimilating Indians into the majority society and dissipating reservations. At present Federal policy suggests an ambiguous combination of both approaches.[37]

Currently, there are over 250 self-governing tribes which to some degree are under the jurisdiction of the Bureau of Indian Affairs. Paradoxically, the courts have reasserted continually the right of Indians to self-government on their reservations, recognizing Indian tribes as separate and distinct entities.[38] But the courts have also stated that this right to self-government is subject to qualification and regulation by Federal legislation.[39]

Apart from matters of criminal jurisdiction,[40] the most extensive congressional limitations on internal, tribal autonomy relate to land tenure. These limitations range from control over the use and disposition of Indian lands, through the grant of adverse interests, to the control of tribal funds (most of which arise from the use and disposition of tribal lands.) Indeed, they even deal with land held by individual Indians, where the right to sell in one fashion or another, is restricted.[41]

In principle then, Indians have all the rights of a sovereign state to manage their own lands; in reality, they are often held an "incompetent" and the Federal Government controls their land and its resources.[42/]

In the early 1800's Chief Justice Marshall declared that Indian tribes bore a relationship to the United States resembling that of a ward to a guardian.[43/] In this day wardship is an inprecise and misleading term, except as used to describe the Federal-Indian relationship with respect to Indian lands. Even here, some Indian spokesman maintain that the Federal Government is more a trustee than a guardian.[44/] This distinction is of some importance since a guardian has a wider range of power over his ward than a trustee has with respect to a beneficiary. Although this guardianship role of the Federal Government is accepted or rejected in varying degrees by different tribes, the forms of Indian land ownership fall into three categories:

1. Trust patent -- the Federal Government holds the title of the property in trust for the Indian who "owns"it. This Indian is unable to lease or sell this land without the approval of the Secretary of the Interior.

2. Restricted fee -- The Indian who owns the land has been given title to the land but he cannot lease or sell it without the consent of the Federal government.

3. Tribal lands--the individual member of the tribe has no vested interest in tribal property, but based on his membership, he has the right to participate in the enjoyment or use of communal holdings of the tribe in such manner as may be provided by tribal authority. As a rule, tribal lands cannot be sold except by Federal stautory authorization.[45]

There are other contexts, related to land management, in which the term "ward" is used. For example, Indians are sometimes considered as the recipients of "unearned bounties" at the hands of the Federal Government, a condition that has led some to decribe them as charity wards. In reality most services rendered to Indians were payments for land cessions or for maintaining peace.[46] Since the Indians, during the early days of the reservations, had little use for money, it was often placed in trust and spent, as the Indians might wish, for food, stock, farm implements, education, medical services and the like. When the funds were expended, Congress thought it wise to continue these services and appropriated funds to do so.[47]

Today, many Federal services for Indians are services which other citizens receive from their respective States. But increasingly, responsibility for the maintenance of these services is being turned

over to tribes or to the States. The trust service over Indian lands, however, has remained within the BIA. Regardless of some distrust of the guardian role of the Bureau, many Indians are protective of this service as a guarantee that their lands will not become dissipated.[48]

Consequently, over the years, there has evolved a fairly complex system for providing services related to the Federal Government's responsibility of reservation land management. Within the Bureau of Indian Affairs, staff are responsible for keeping records of all trust and restricted land. Through appraisals, the Bureau must insure that Indians obtain the highest values for sale or lease of property. The Bureau also supervises any other transactions involving Indian lands. For example, it is responsible for contacting all co-owners preceding and following lease transactions. In addition, the Secretary of the Interior may grant rights of way through reservations

with the concurrence of the respective tribe. Finally, the Bureau is responsible for administering the estate upon the death of an Indian who may own trust or restricted lands. These services are financed by approximately $10 million (fiscal year 1971) and account for a significant portion of the Bureau's voluminous paperwork.[49/]

In addition to the above legal services, the BIA maintains a large pool of technicians to assist and advise tribes on soil conservation, range management, water rights and conservation, mineral development, forestry and wild life and fishing. In some cases, other Federal agencies coordinate with these efforts and share their resources with the BIA. For example, the Department of Agriculture and the Department of Interior (other than the BIA) cooperate with the Indian soil conservation effort. The Office of Economic Opportunity Job Corps has provided manpower for the same program. Other such cooperative efforts include the Bureau of Reclamation on irrigation projects, the Department of Agriculture on range management, and the Geological Survey on mineral development and sales. (See also CCR staff paper on Indian Water Rights)

The BIA budgets approximately $22 million annually for these services. However, this figure does not account for all of the BIA staff who provide on-going technical assistance and training programs. With a few exceptions, the extent of assistance and funds specifically for land management on reservation from other agencies is also unknown. (Table 1)

The extensive services in land management provided by the BIA not withstanding, Indians receive only about one-third of the gross earnings fro. .heir agricultural resources. The other two-thirds go to those who

lease Indian lands. In 1968, only $114 million out of a $300 million gross agricultural production went to the Indians themselves. Only 140,000 acres of irrigable land out of 487,000 acres were operated by Indians.[50] (Table 2)

Traditionally, many Indians were not farmers or ranchers. Even with the assistance of BIA technicians, productivity on reservation farms has remained below full potential. Many Indians, expressing a disinterest in agriculture have found that leasing their lands to non-Indian farmers is one alternative for land utilization.[51]

The low level of formal education of many rural Indians and the complexity of modern farming techniquess have also contributed to poor farming results. Capital outlays for equipment are not possible for many Indians living at poverty levels. The BIA provides a revolving loan fund, but the appropriation for this program is limited and many loans actually go for basic subsistence. More recently, Farmers Home Administration, through a special provision of the Economic Opportunity Act of 1965, began making loans in larger sums. By December, 1966, outstanding loans from this source to Indians were valued at $11.1 million.[52]

Probably the most difficult problem in developing agriculture on some reservations is the fragmentation of land ownership. As a result of the Allotment Act of 1887, and to some degree the termination policies of the 1950's, many reservations were divided into smaller and smaller tracts. Joint ownership of relatively small land areas under Federal

trust make farming less and less an economically viable venture.[18]

In contrast, many Indian tribes do receive a substantial income from their mineral resources. In the mid-1960's they received an average of $40 million annually from rents, royalities and bonuses.[53]

Another valuable resource, and one substantially supported by the BIA, is the reservations' forests. Over 75 percent of these reservation timberlands are located in six western states: Arizona, California, Montana, New Mexico, Oregon and Washington. In 1966, Indians received revenues of $14.3 million from their timber industry. By 1969, these revenues had increased to $21.2 million.

In addition to timber manufacturing, the forestry program (coordinated by several Federal agencies) includes fire prevention, pest control, conservation training and forest research.

Congressional legislation has provided for the Federal Government's management of reservation forest lands.[54] Except when employed by the government's managers, Indians usually have minimal control over the disposition of their forests. Nor are they, with a few exceptions, in the majority as employees of sawmills and other forest related industries. A mid-1960's survey showed that of over 6,000 jobs in logging and primary manufacture, 2,300 Indians had these permanent jobs.

On the other hand, during fiscal year 1965, over one-third of the full time staff of 326 and 90 percent of the seasonal staff of the permanent forestry program were Indians.[55]

In recent years, tourisms, wildlife and fishing programs have combined available human and natural resources with relatively more economic success than other industries.[56]

Industrial Development. Until recently, the Federal Government concentrated its economic development programs for reservations on agricultural concerns. Before 1960, there were only four factories on reservations.[57] With the combined efforts of the BIA and the Economic Development Administration (EDA),[58] of the Department of Commerce, the emphasis has shifted toward industrial growth. This shift can be partially attributed to two factors. (1) The BIA acknowledged that existing agricultural programs could not sustain the present reservation population. (2) Despite the Federal Government's

attempts to improve agricultural production, many Indians were simply not becoming farmers.[59]

However, as with agricultural ventures, lack of management training, poor transportation facilities, and to some degree cultural conflict, have maintained the potential for industrial growth.[60]

In addition, the low educational attainment of the Indian population as a whole discourages outside businesses from relocating among an unskilled labor force and inhibits the development of viable businesses by Indians themselves. Since the younger, and more educated

Indians have tended to migrate from the reservation, the potential of human resources remaining on or near reservations has diminished.[61]

As with tourism activities, combinations of human and natural resources have stimulated a type of light manufacturing on some reservations. For example, in areas with ample timber resources, some tribes have established sawmills and light furniture manufacturing. These enterprises still rely on the BIA and other agencies for technical assistance, but they are increasingly coming under the majority control and management of Indians.[62]

A major monetary support for industrial development in the last seven years has come from the Economic Development Administration. EDA provides loans to purchase land, buildings, and machinery, and it provides some working capital and technical assistance. To stimulate private industry to locate on or near a reservation, EDA allocates some of its funds to develop and improve basic public works such as sewers, water and transportation facilities. From 1966 to 1968, EDA spent $36 million to aid industrial development on Indian reservations. Half of these funds went toward public work grants.[63] (Table 3) From 1968 to 1970, nearly $80 million in projects was approved; two-thirds of these funds were for public works projects.[64]

In addition to BIA and EDA incentives to private industry, tribes themselves have offered various inducements. Land, capital and subsidizing training for a labor force (see Employment Programs) are

available to some degree, especially on large reservations such as the Navajo Reservation.

Indians do have some trust funds which may be used for industrial development, but many tribes have been reluctant to utilize these monies.[65/] Several plans for use of this money for mortgaging reservation land or for increasing loan possibilities for reservation Indians, have been advanced in the last ten years.[66/] Apparently, Indians have been hesitant to finalize such plans; in some cases, termination of Federal responsibility has been an overriding consideration and a continuing barrier to greater industrial development.[67/]

EMPLOYMENT PROGRAMS

Employment is a major problem for Indians living on or near a reservation. In 1964, 74 percent of the reservation families earned less than $3,000 a year. Also, there was a great difference in median income among reservations, ranging from a low of $900 per year on some reservations to a high of $3,600 on others.[68/]

Low income levels are one indicator of the employment problem for reservation Indians; high unemployment rates are another. In 1970, unemployment for Indians was 10 times the national average.[69/] In 1966, many reservations had unemployment rates over 50 percent, some had rates as high as 70 percent.[70/] Since many reservation Indians still rely on seasonal agricultural employment, these unemployment rates fluctuate greatly during any one year.

To improve Indian families' incomes, and to reduce the high unemployment, the BIA began in the 1950's to develop many employment assistance programs. In 1966, OEO joined in providing funds and technical assistance for training, apprenticeship and placement programs. Also in the 1960's the Department of Labor developed a series of training programs for all persons of low income. Indians, especially those off the reservations, participated in these efforts.

The BIA's first major effort in employment assistance was the Relocation Program. Promoted as a voluntary program, the relocation

effort was one facet of the government's termination policy of the 1950's and 1960's. (See Historical Summary of Federal Policy.)

The Relocation Program provided for a package of services for Indians and their dependents who wished to leave the reservation and relocate, generally in a large urban area. Counseling, travel expenses, subsistence funds, and basic housing and furnishings were provided up to three years after relocation. Under this plan, once a head of household found work, a BIA field office staff would continue to provide counseling and other support services as needed. Usually, however, these services were discontinued after a year. 71/

From 1952 through 1967, 61,641 Indians, including dependents participated in this program. By 1967, the BIA was expending nearly $4 million a year for its relocation efforts.

Since many Indians expressed a preference for remaining on or near their reservations, and unknown numbers of Indians returned to their reservations following the failure of relocation efforts, the relocation program was amended and expanded in the late 1950's. It is now called Employment Assistance.[72/] In addition to job placement, On-the-Job Training (OJT) was developed, and preplacement adult vocational training was offered. These programs increased BIA's manpower budget by $13,336,000 in 1967. An additional 37,779 Indians participated in these programs between 1958 and 1967. (One additional benefit anticipated by the OJT programs was to encourage private industry to relocate on or near reservations since part of the labor force's salaries could be subsidized by the Federal Government.)[73/]

Between 1964 and 1967, 2,928 Indians participated in the OJT programs, about 97 percent of which were held within a reservation area. Although BIA has

evaluated its OJT and Adult Vocational Education Programs as being successful, the OJT programs, included only approximately 2 percent of the 130,000 Indians total reservation workforce.[74/]

As with the direct Relocation Program, the Adult Vocational Training program (AVT) offers extensive support services, in addition to work related training. After training is completed BIA field staff may assist in job placement. Training typically takes from three months to two years to complete.

Despite the apparent growth in participation in the AVT program (873 participants in 1958 to 5,545 participants in 1967), job placement following vocational training has been difficult. The Federal Government's attempts to encourage private business to relocate closer to reservations has not kept pace with the number of Indians receiving training. However, of the three BIA employment assistance programs, the adult

vocational training program has been the most successful in reducing overall unemployment for Indians who chose to relocate.[75]

In 1968, ten percent of the adult vocational trainees who had returned to the reservation, were unemployed, but only 3.5 percent of those who relocated were unemployed.[76]

Relocation, however, has not generally been effective. The Bureau of Indian Affairs estimates that in the early days of relocation, three out of ten who were relocated returned to their reservation; other surveys suggest that the figure is probably between 50 and 75 percent.[77]

In 1971, BIA summarized the participation results of the Indians in all three programs. The results of the OJT program is typical. From 1958-1971, 13,475 Indians entered OJT training services; 5,072 completed and 7,811 discontinued training before completion. 78/

As mentioned above, OEO and the Department of Labor have offered programs for the low income or unemployed Indian population. But the percentage of funds for programs spent specifically for Indians is not known. Some Manpower Development and Training Act (MDTA) programs are conducted on reservations, but generally, Indian participants are those relocated to urban areas by the BIA or by their own resources. Both OEO's Job Corps and the MDTA programs offer basic education courses in addition to technical training.

In addition, Job Corps and Neighborhood Youth Corps (NYC) have occassionally offered programs specifically for Indian populations on reservations, in addition to their programs for all disadvantaged persons. For example, in 1966, OEO provided training and employment to the NYC on 66 reservations for 17,961 trainees. This effort cost $12,187,755 that year.

Employment assistance is also provided indirectly through other BIA and other Federal agencies' programs. (See especially, Welfare Programs, Land and Resource Management Programs, and Public Health Programs.)

EDUCATION

Since the early 1800's the Federal Government has been directly involved in the education of Indians. As with other services for Indians, the Federal Government provides many educational services that non-Indians receive from their state and local governments; services which, in many cases, were guaranteed by treaties or Congressional mandate. Despite various policy changes over the years, the Federal Government still has major responsibility for the education of Indians from pre-school through adulthood.

In 1819, Congress passed a law which provided for the administration of a fund for the "civilization of Indians." The $10,000 annual appropriation was channeled through religious and mission groups. In the 1840's the Federal Government and these private groups combined to institute the first Indian boarding school system. By 1900, however, Congress had mandated that no educational funds could go to sectarian schools, and the Federal Government took full responsibility and control.

Although Indians received full rights of Federal and State citizenship in 1924, many states still considered the Federal Government responsible for Indian education. After World War II, the Bureau of Indian Affairs initiated efforts to decentralize its educational program. Hoping to provide an opportunity for fuller participation of Indians in the states where they resided, and to begin terminating the Federal role in Indian education, the Federal Government instituted a series of subsidies, grants and other programs to bring Indians largely

within the local public school systems.[79]

At the present time less than two-thirds of the Indian children now attend public schools. The Bureau of Indian Affairs has full responsibility for schools and other educational programs for over one-third of the elementary and secondary Indian students and a majority of the adult population.[80]

In fiscal year 1969, the BIA budgeted over $100 million for its entire education program, out of a total budget of over $250 million. The bulk of these funds are used for the maintenance of BIA elementary and secondary schools. However, the Bureau does operate a few summer pre-school programs, some vocational training and some adult education.[81]

Elementary and Secondary Education

The BIA reported in 1969 that of the 190,066 Indian children in school, 52,471 were attending Federal schools.[82] An additional 4,089 lived in dormitories off the reservations and attended public schools. Of those students attending Federal schools, 16,100 went to day schools on or near reservations; 36,263 attended boarding schools away from their homes. Although Federal policy has promoted greater enrollment of Indian children in public schools for the past fifteen years, the percentage of Indians in Federal schools (28%) has decreased only 9 percent since 1930.[83]

Generally, Bureau schools are located in isolated reservation areas; many of these sites were selected during the late 1800's when Federal policy was to remove Indian youngsters from their homes. By

1971, the Bureau maintained over 200 day and boarding schools, 19 dormitory facilities and schools in two hospitals. Nearly 60 percent of the elementary day schools have enrollments of over 1,000 students.

Until recently, policy, administration, curriculum development and staffing have been highly centralized in BIA offices. However, during the 1970-71 school year, four local schools were operated by all Indian school boards under contract with BIA. These schools are Stephen High School, South Dakota; Blackwater and Rough Rock, Arizona; and Ramah High School, New Mexico. In 1970, Indian controlled schools accounted for only 750 Indian students out of over 50,000 attending BIA financed schools. The BIA also recently contracted with the Navajos in Arizona for the development of the Navajo Community College.

In addition to the Indian children who received direct aid through BIA schools, over 60,000 Indian students received some benefit from grants in aid while attending public schools. These additional funds to public schools are mainly appropriated through three programs: the Johnson O'Malley Act, Impact Aid, and the Elementary and Secondary Education Act (ESEA), Title I.

The Johnson O'Malley Act of 1934 (JOM) provides Federal money to states to help educate eligible Indian children in public schools. All children of one-quarter Indian ancestry whose parents live on or near reservations are eligible for aid. Usually, the state department of education in turn contracts with local school districts; in a few cases, BIA contracts with local school districts directly. For fiscal year

1971, $19.6 million was budgeted for JOM programs, and for fiscal year 1972, $21.7 million was authorized.

Related to the overall termination policy, modification of JOM funding regulations was made in the 1950's to include only those Federally recognized Indians residing on reservations. This modification resulted in reduced eligibility. For example, of the 177,000 Indian students attending public schools in 1968, only 62,000 were eligible for JOM assistance. The remaining Indian children (mostly non-reservation and urban Indian students) were considered ineligible.[84] Although many other aspects of the 1950's termination policy have since been altered or eliminated, BIA continues the educational policy of placing Indian children into the public school system. There is also some question about the legality for this modification of regulations.[85]

The Federal regulations governing JOM expenditures are ambivalent. In some cases, general support is indicated and in other cases, supplemental and "equalizing" benefits are indicated. There is no uniformity among states on the allocation of these funds and like Title I, and Impact Aid, it is difficult to ascertain just how much direct benefit Indian children receive from these funds specifically earmarked for them.[86]

ESEA, Title I, funds are designed to upgrade the educational opprotunities of economically and educationally deprived children. Both BIA schools and public schools receive funds from this program based on their Indian enrollments. In 1967, following the Indian amendment to Title I, BIA received from the Office of Education about $5 million,

and it has continued to receive these funds. Since Title I funds are spent for all deprived youngsters, it is not possible to identify the cost value expended specifically for Indian children attending public schools. But like JOM funds, there is some question as to whether these funds for remedial and enrichment programs beyond the regular local school expenditures, have actually been utilized as intended by the Congressional Act.[87]

The Office of Education also makes grants to states or local school districts under Public Law 874 and Public Law 815, Impact Aid. The purpose of these two laws passed by Congress in the 1950's was to provide Federal funds where Federal activities created a financial burden on local school districts. Although the laws were initially intended to relieve the burden of tax free military installations, Indian reservations were eventually also considered eligible. At first the directors of Indian education feared Impact Aid would diminish their revenues from JOM, but this fear was resolved by the concept of 'dual funding'.[88] Impact Aid was designated to be for general operating and construction uses, whereas JOM was allocated to be for special and supplemental programs for Indians. In fiscal year 1969, the Office of Education provided $27.9 million for school districts with eligible Indian students under Public Law 874, general operating funds. It also spent $55,233,523 since 1953 on school construction under Public Law 815. The total funding for Indian children in public schools in fiscal year 1969 was over $66 million, of which over one-half was Impact Aid.

As large as these funds may seem, there is no way to identify how

much of these funds are spent toward improving education specifically for Indian children. The money is used as a general aid and no reporting of its use is required.

Both JOM funds and Title I funds have Federal regulations recommending the inclusion of parents and community members in the decision making process. Neither program strictly enforces this regulation.[89] Because of the controversial nature of these two programs, efforts have been made recently to funnel these funds directly to tribes, Indian run schools, and specific education programs for Indians. To what degree these efforts have succeeded is not yet known.

Pre-school Education

In addition to the small summer pre-school program sponsored by the BIA, Indian reservations have received funds for Office of Economic Opportunity (OEO) Head Start since its inception in 1965. In 1968, Head Start programs served 8,000 four and five year olds at nearly $1,000 per child or a total cost of $7.7 million. Since there were approximately 24,000 Indian youngsters in this age group at that time, only one-third of the four- to five- year olds were reached by this pre-school effort.[90] By 1972, Head Start for Indian children was authorized to spend $13.3 million. Technical assistance and training services as well as the year round Head Start program on reservations was also included.[91]

Higher Education

Like non-Indians, Indian students are eligible for loans under the National Defense Education Act, but no figures are available specifically on Indian participation. To an unknown extent Indian students have also

participated in the Office of Education Equal Opportunity Grants offered on college campuses throughout the country.

The BIA does have a scholarship program. In 1966, nearly 2,000 Indian students received grants totalling $1.4 million from this service. By fiscal year 1968 the appropriation for this program was over $2 million. The average amount of assistance to each student has been under $1,000 per year.[92]

Vocational and Adult Education

Within the Federal elementary and secondary school system, vocational education is offered on a limited basis. When the boarding schools were first established, their primary concern was vocational training, particularly agricultural. More recently, policy changes have shifted the emphasis to academic courses. Since there has been some ambivilence about the effectiveness of vocational courses in the past, BIA has not established a firm rationale for this position. In any event, Indian education administrators expressed the feeling that college preparatory courses will help those who wish to continue with higher education, and will give those w ho wish sophisticated vocational or commercial training at the post high school level an adequate basic education.[93] Specific allocations for vocational education within the BIA schools have not been identified.

Indirectly, vocational education has been provided Indian youth through several programs: BIA funded 4-H Clubs, OEO Neighborhood Youth Corp, and OEO Job Corps. These latter two programs provde some basic education and, vocational education while the students are earning a minimal salary. (Also see Employment Programs.)

Although Indians over the age of 24 have a median literacy below 5th grade, only half of the Federal reservations had an adult education program in 1968. BIA provided 40 adult educators for 160 reservations to establish courses, recruit teachers and coordinate efforts with other reservation education programs.[94] The BIA education budget of $100 million in 1969 allocated only $1 million for adult education.

OEO has also provided funds for Adult Basic Education. In 1966, $470,000 was allotted for such programs. In both BIA and OEO programs literacy training, consumer education, civic responsibility, alcoholic rehabilitation, arts and crafts, and general community development were included in the offerings.

Both agencies provide funds for agricultural training and home and family life programs. In some cases, the two million dollars allocated annually for these activities during the late 1960's were funneled through existing state agencies; in other cases, the funds went directly to reservation tribal governments. Because these programs are parts of larger "package" funding, the amount of assistance is not available.

Education Program Effectiveness

The goal of the BIA's educational program for the last five years has been to "close the education gap between Indians and other Americans by raising the academic achievement level of Indian students up to the national average by 1976."[95] Yet Indian children's achievement is still the lowest of any group in the United States. Quality education is difficult, if not impossible to define. However, several factors suggest that current funding is not providing Indian children with skills necessary to survive either on the reservation or in a complex

urban setting.

One such factor is educational attainment. The median level of schooling of Indian males in 1960 was about the same as the level of all males in 1940. Although the median level of Indians increased from 1940 to 1960, the percentage of Indians attending college in 1960 was only about one-third that of all males in the U. S., and the percentage of Indians with no schooling or fewer than five years was more than double that of all males.[96/]

There is a difference between the educational attainment of reservation and non-reservation Indians. In 1969, a Congressional hearing found that reservation Indians over 25 years of age averaged 5.0 years of schooling and non-reservation Indians averaged several years higher. For the Indian population as a whole, in 1969, the median years of school completed was 6.1 years as compared with the median for the white population of 12.3 years.[97/]

A second factor related to the quality of education provided Indian students is drop-out rates. Estimates over the last ten years suggest that Indians drop out of school before finishing high school at the rate of 40-60 percent. As of 1969, no drop out prevention program for Indians had been attempted by the BIA or any other Federal agency.[98/]

A third factor related to quality education is the accreditation of Indian schools. When accredited by the state, Indian schools are rated as well as public schools. However, when accredited by regional accreditation (a more rigorous process) Indian schools rate worse than public schools. (Table 4)

A fourth factor affecting quality education is the extent of special services. Within the BIA budget for the Federal schools, in 1968, only seven special educators for 250 schools and 57,000 students were provided.[99] Special services include social workers, psychologists, psychiatrists, special education teachers and counselors. With the high degree of educational deprivation among Indian children, it would seem that that extent of special services is inadequate. (Table 5)

A fifth factor which also probably affects the quality of education is the high rate of turnover of Federal school teachers. The rate of turnover in BIA schools is almost double that of the public school system in the U. S. as a whole. To some extent, high turnover is a reflection of dissatisfaction with the schools, and "a dissatisfied teacher cannot function at maximum effectiveness."[100] (Table 6)

Isolation of the BIA schools is a major reason given by teachers for leaving the schools. However, economic reasons are rated as third in importance. (Table 7) BIA teachers are hired within the civil service system. Although their starting pay is competitive with public school system, they work a full year (two-three weeks vacation) as opposed to a ten month year of most public school systems.

A final factor is possibly the number of students who continue their education. Although the numbers of Indians who drop out before completing high school remains high, the number of those who do graduate and continue their education has increased since the early 1960's. In 1967 nearly 30 percent of reservation graduates entered college; an additional 25 percent attended vocational education institutions. This is twice the rate of ten years earlier.

Although the number of college graduates from Indian reservations was nearly 250 in 1967--an increase of a 100 percent since 1962--Indians have failed to complete college in large percentages. Several studies suggest that college drop outs range from 50-70 percent for reservation Indians.[101/]

WELFARE PROGRAMS

As with education, State and local government officials have viewed welfare services for Indians as a Federal responsibility. Despite full Federal and State citizenship rights decreeded by law in 1924, many state and local officials relied on the traditional "guardian-ward" relationship of the Federal Government.[102]

Recognizing that the tax exempt status of many reservation lands creates a financial burden for state welfare agencies, the BIA provides funds for subsistence, called general assistance, to Indians through existing state programs. The Bureau's policy, as of 1965, was stated as follows:

> When resources are unavailable, or are insufficient, and assistance from other public sources is not available, then general assistance will be furnished to meet unmet living needs or to supplement available resources . . . Indians for whom general assistance is available from a state, county or local public jurisdiction are not eligible for general assistance from the Bureau.[103]

During fiscal year 1968 about 21,000 Indians received general assistance from the BIA of approximately $140 per month. While this amount is higher per person than the average $90 per person for non-Indians, the latter in many cases supplement their welfare pay-

ments with aid to dependent children, old age funds or other programs for which Indians could not qualify. For example, some states would not provide aid to dependent children funds if the head of household were an unemployed male.[104]

In recent years, more states have assumed responsibility for providing general assistance and other subsistence funds to Indians. As of 1968, it was estimated that approximately 64,000 Indians on reservations received some form of aid beyond the BIA general assistance program. However, some states still persist in relying totally on Federal resources for Indian welfare services.[105]

Several other programs do provide Indians with basic subsistence funds: social security, unemployment compensation, and veteran benefits. The degree to which Indians avail themselves of these programs is not precisely known. For many Indians, employment in seasonal agricultural work has precluded eligibility.

Others are just not knowledgeable about benefits and how to apply for them.

The BIA also acts as a catalyst in providing welfare related services offered by other Federal agencies. It assists state agencies in the distribution of surplus food commodities on the reservation, and it assists in the selection of Indians for Bureau and HUD housing programs.[106/]

In addition to the BIA, OEO provides a number of social welfare services. Although understandably skeptical about new Federal programs, Indian tribal councils formed community action agencies (CAA's) to administer OEO funds soon after the Economic Opportunities Act of 1965.[107/]

The unique opportunity to administer the programs themselves, rather than

have the Federal Government dictate policy and administration was apparently a welcomed feature of the OEO programs.[108]

By summer, 1968, 63 CAAs served 129 reservations where 80 percent of the reservation Indians lived.[109] Over 65 percent of the funds were used for locally developed and implemented programs. (Table 8)

In addition to providing needed, Indian directed, services, OEO programs provided employment. By mid 1968, OEO related programs on or near reservations employed 760 professionals and 3,000 non-professionals. All of the latter were Indians and an unknown proportion of the former were Indians. However, many of the non-professional jobs are temporary jobs or training position such as Job Corps, OJT and Neighborhood Youth Corps.[110]

Since the early days of OEO programs, many programs have been transferred to other agencies. Job Corps is now within the Department of Labor; Head Start is now administered by the Department of Health, Education and Welfare. To what degree Indians still participate in the policy and decision - making of these programs is not known.

Community Action Agencies for Indian reservations, however, received $23.54 million in fiscal year 1972 and OEO Legal Services provided Indian legal service organizations with $1.8 million this same fiscal year.[111]

HEALTH PROGRAMS

By treaty and by law, reservation Indians of one-fourth or more Indian blood are entitled to free comprehensive medical care.[112] A Federal health program was first made available for Indians in 1832, at which time Congress appropriated a meager $12,000 for a health program. Four years later the Federal health program was extended to provide limited health services to the Ottawa and Chippewa Indians under treaty provisions.[113] By 1880 the Bureau of Indian Affairs had four Indian hospitals and a total physician staff of 77 doctors. From that time until 1955, Indian health facilities continued to expand slowly, but Congressional appropriations were minimal. The results were that Indian health programs were deplorably inadequate, and Indian disease and death rates were many times greater than for other Americans.

In 1955, Indian health care was transferred to the Public Health Service, Department of Health, Education and Welfare. In that year, the Federal budget for Indian health was $24.5 million; by 1958, this figure had more than doubled to over $50 million, and in fiscal year 1972 it was more than $153 million.[114] At the present time, the Indian Health Service (IHS) operates 51 hospitals, 77 large clinic facilities and several hundred field health stations.[115]

The Office of Economic Opportunity has also contributed some funds for improved health services for Indians, but in 1968, funds for local and national health programs through OEO programs was less than $1.5 million.[116]

Despite these increased funds and greatly improved facilities and staffing, Indian health is still about 20 to 25 years behind that of the general population.[117/]

In addition to the still inadequate health service for Indians, the IHS has been plagued with other problems since its transfer to the Public Health Service. These include 1) the low percent of employment of Indians in professional and higher grade positions, and 2) the exclusion of non-reservation Indians from Indian health services.

As of July 1970, the IHS employed 6,322 Federal employees in its headquarters and eight field offices. Of these, about 50 percent were Indians. However, over 80 percent of the Indian civil service employees in this group were in the lowest grades of GS-2 to GS-5. The same situation was true for wage board jobs. Indians held 88 percent of these jobs, but 70 percent of these were in the five lowest pay scales, WB-1 through WB-5. A third category of employment in IHS is the Commissioned Officer Service. These employees are doctors, dentists, nurses, pharmacists, engineers, health educators, and sanitarians. As of 1970, out of a total 1,001 persons in the Commissioned Officer Service, only five were Indians.

To what extent Indians living off the reservation are eligible for Indian health services has not been clarified by Congress or the courts. The IHS stated in 1971 that:

> There currently are about 790,000 citizens who identify themselves as Indians, Eskimos and Aleuts according to the 1970 U.S. Census. Of these, approximately 460,000 reside on or adjacent to Federal Indian reservations and in identifiable

> Indian communities in Oklahoma dna Alaska. It is this group who fall under the aforementioned Federal relationship and participate in a variety of special Federal Indian programs, including the program of one Indian Health Service. The remaining 330,000 Indians live on State reservations, mainly along the Eastern seaboard, and in towns and cities throughout the nation and do not maintain a special relationship with the Federal Government. When their social service and other needs are met, they are met through the naormal channels serving all other citizens. (Emphasis added)118/

In February of 1972 the Director of the Phoenix Area Indian Health Service said that individual Indians do not have entitlement to services provided by the Indian Health Service 119/ once they leave the reservation. However, since growing numbers of Indians have been moving to urban areas, the extent to which IHS should provide services to Indians off reservations should be clarified soon.

OTHER FEDERAL PROGRAMS

Housing

Substandard housing is more often the case than not on Indian reservations. In 1966 BIA estimated that of 76,000 houses on Indian reservations and Alaskan villiages, 76 percent or 57,000 were substandard, and overcrowded. In addition, over two-thirds of these (42,000) were considered too run down to even merit improvements.[120/] Between 1965 and 1968 fewer than 5,000 new units were built.

Since conventional credit is exceedingly difficult for Individual reservation Indians to obtain, several Federal programs have specifically concentrated on alleviating the critical housing problem.

The BIA funds a housing improvement program. From 1964 to 1968 some 2,600 units were constructed or improved. New homes are built at an average cost of $11,000 each. OEO also funds a home improvement program which by 1968 was funded at $413 million. However, since so many Indian homes are too dilapidated for improvements to be of much help,[122/] this program has had minimal impact on improving reservation housing.

As with other low income persons, reservation Indians are eligible for low rent housing and other public housing programs. The Housing Assistance Administration (HAA) of the Department of Housing and Urban Development (HUD) funded construction between

1964 and 1968 for over 2,000 units on reservations. But as with other public housing programs, low maintenance of these units has caused rapid deterioration.

In addition to conventional low rent housing aid, the HAA has sponsored "mutual help" programs; Indians contribute labor and land and the government provides materials and technical assistance. A possible advantage of mutual help over other public housing is that ownership may eventually go to the Indian family who helped build the home. However, many heads of household have other jobs, if only part time, which limit the time they can expend on construction.[123] Since many are unskilled in construction, to begin with, the potential for training in this area (as envisioned by the legislation) is dependent on the time actually on the job.[124] Between 1965 and 1969, nearly 2,000 mutual help units were built, but actual construction has been much slower than anticipated.[125]

Finally, both BIA and OEO have provided assistance to Indians seeking loans for housing improvement and housing construction from conventional and other governmental sources. From 1960 to 1965 about 3,300 families received some assistance in financing for new homes and about 7,500 families received loans for home improvement.[126]

In addition to individual housing programs, HUD and the EDA have funded programs for construction of community centers, parks, playgrounds and other community facilities. About $2 million was budgeted by EDA from 1963 to 1965 for this kind of activity. HUD funded several neighborhood centers and urban planning grants and is reviewing additional projects.[127]

Transportation

As with other programs, the Bureau is in the process of relegating much of its responsibility for roads to the respective states in which reservations are located. Jurisdiction (county and state) remains unclarified and continues as a problem for improved highway development and maintenance.[128]

There are 100,000 miles of roads on Indian reservations of which 70,000 miles primarily serve areas sold to non-Indians and 20,000 miles serve land operated by Indians.[129] The BIA maintains and improves roads on 165 reservations in 23 states, but it has a current policy of shifting maintenance responsibility to states or counties.[130]

Of existing BIA or state maintained roads only about one-tenth are paved. In 1965, BIA's budget allocated $206 per mile per reservation for road improvement and maintenance as compared with a national average of $415 for other rural county road systems.[131] Fiscal year 1973 appropriation is $45,539,000.

Data is not available on rail service through reservations, but both developed roads and railroads provide an incentive for industrial development. Transport of manufactured goods is a significant consideration of production-delivery costs. However, BIA budget limitations have apparently made railroad improvements a low priority program.[132]

Public Safety

In principle, Indian reservations have been given sovereignty over their own affairs. However, in 1885 Congress gave Federal courts the authority to prosecute certain crimes committed by Indians on Indian reservations.[133] The "ten crimes" include murder, manslaughter, rape, incest, assault with intent to kill, assault with a dangerous weapon, arson, burglary, robbery, larceny embezzlement from tribal organizations and trespassing for hunting and fishing. With the exception of the latter two crimes, non-Indians on reservations are subject to state laws and jurisdiction.[134]

Some states have obtained jurisdiction over Indians residing on reservations (Iowa, Kansas, New York, California, Minnesota, Nebraska, Oregon and Wisconsin). Others have assumed such jurisdiction under Public Law 280.

In those states which have not assumed jurisdiction, Indian tribal laws and Indian court systems have authority to maintain order and administer justice. In a few cases, the tribes finance these programs completely; in other cases, the BIA shares costs with tribes or pays full costs for police protection, courts and jails and limited preventive and rehabilitive services. The BIA has funded such activities at nearly $3 million annually, and the tribes provide slightly more from their budgets.[135]

III

THE BUREAU OF INDIAN AFFAIRS

Relationship with Indians

The BIA has not provided services for all American Indians. Of the 827,982 Indians reported in the 1970 preliminary census, over 330,000 were excluded from BIA services. These included most urban Indians and others living off reservations, non-federally recognized or terminated tribes, and State reservation Indians. Eligibility for many BIA services (as well as other Federal services for Indians) has been ambiguous and subject to specific legislation or programs.[136]

Usually, the BIA has defined eligibility for its services in the following way:

> Who is an Indian? The statistics here pertain to what might be called "administrative" "official" Indians who are eligible for services from the Bureau of Indian Affairs. Generally speaking, they are members from tribes with federal trust land, who have ½ or more Indian blood and who live on a federal reservation or near by. Other definitions of "Indian" are possible--for example, the Census Bureau employs a cultural definition, counting persons who report themselves as Indian (or who are so regarded by the community) regardless of tribe of residence.[137]

Recently however, the U.S. Court of Appeals, Ninth Circuit in Ruiz vs. Morton held invalid the regulation that the Bureau serve only Indians "who live on a Federal reservation or near by."[138] This decision was related to general assistance, but it has implications for other services as well.

The relationship between the BIA and the many Indian tribes and individuals it serves has always been a precarious one. On the one

hand the BIA as a separate Bureau devoted solely to the needs of Indians, provides the various, distinct tribes with an assured advocate among many powerful interest goups at the Federal Government level. Many Indians fear that a dismatling of the Bureau would be similar to termination; loss of identity as well as loss of lands and economic base might occur.[139/]

On the other hand, BIA has traditionally been a highly centralized agency. Policy decisions, program decisions, and budget distribution have emanated from Washington, D.C.[140/] Although Indian preference laws affect hiring and promotion decisions within the bureau, many Indians complain that the BIA has too few Indians in decision making positions both in Washington, D.C. and in Area Offices.[141/] Complaints have also been made that the court-recognized sovereignity of each Indian "nation" is jeopardized because the BIA in unsupportive of tribal self-government.[142/]

Finally, since its inception, BIA policy has encouraged assimilation of Indians into the majority society as quickly and efficiently as possible, either officially or unofficially.[143/] Indians of many different cultures and reservations have as tenaciously rejected assimilation, preferring maintenance of their own land and culture.[144/] Because of these contradictory perceptions of the role of the BIA, clashes over policy and priorities have resulted.

Internally, the BIA reflects many of the same problems which plague its relationships with each tribe and individual. The BIA

services over 250 unique tribes, each with its own customs and problems. Just as one program for educating Navajo children could not be replicable for Zuni or Papago children; so one policy decision or budget allotment for a priority considered crucial to one division or branch of BIA, may be considered unnecessary to another. One BIA official described this internal problem as follows:

> In the budget process, each agency in theory, prepares its own budget, which is then evaluated by the area office and consolidated into an area budget, then submitted to the Washington office for similar evaluation and consolidation. In practice, guidelines based upon previous budgets are determined in Washington and allocations are actually dictated and controlled by the Divisions as entities rather than by the agencies at the operational level. For example, if a superintendent decides that the budget of one branch of his reservation should be cut and another increased in order to serve a tribe more effectively, the offended branch sends word up through the line to its Division Chief in Washington, who then informs the superintendent that if his branch does not need the money in his agency, it will be transferred within the same branch to another agency. Under this system, considerable time and energy that should be spent on service at the operational level are expanded in conflicts between the Division hierarchies on the one hand, and the superintendents and area directors on the other. At the same time, the system often results in the presence on reservations of branch specialists who are not needed and, conversely, of not enough personnel or funding for branches that are badly needed.[145]

Administration of BIA Offices

The Bureau of Indian Affairs is one of the oldest bureaus in the Federal Government. (See Historical Summary) Created in 1824 as a part of the War Department, it was transferred to the Department of Interior in 1849. At present the BIA administers services for Indians through three levels of offices: BIA headquarters in Washington, D.C.; 12 Area Offices; and Field Installations.

In addition to a special office of Indian Water Rights, the Bureau Headquarters, under direction of the Commissioner of Indian Affairs, has four mission-oriented, or program offices, and eight administrative offices or units.

Area offices, directed by Area Directors, have staff specialists in several or all Bureau programs. Area offices assist in direct implementation of Bureau policies and programs and provide information back to headquarters. With the exception of the Southeastern Agencies, located in Washington, D.C., Area offices are located within the area or reservation which they service.

Field installations are usually located directly on reservations. Off-reservation boarding schools are an exception. An Agency is one type of field installation and it is directed by a Superintendent who reports to an Area Director. Another type of field installation is an irrigation project, which is under the direction of a Project Engineer or Manager. While usually located on reservations, irregation projects may also serve non-Indian lands and provide electrical services to adjacent areas.

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In 1972 the BIA employed 16,000 people who served approximately 488,000 Indians, or one BIA employee for every 30.5 eligible Indian. The fiscal year 1973 appropriation for the Bureau is nearly $542 million.[147] On a per capita basis that is approximately $1,200 for each Indian.

TABLES

TABLE I

1973 ESTIMATED APPROPRIATIONS

FOR RESOURCES MANAGEMENT

OF INDIAN RESERVATIONS

ACTIVITY	FISCAL YEAR COMMITTEE BILL 1973 ESTIMATED APPROPRIATION
Forest and Range Lands	$ 8,152,000
Outdoor Recreation	353,000
Fire Suppression and Emergency Rehabilitation	800,000
Agricultural and Industrial Assistance	18,262,000
Soil and Moisture Conservation	9,731,000
Maintenance of Roads	6,598,000
Development of Indian Arts and Crafts	663,000
Management of Indian Trus Property	12,414,000
Repair and Maintenance of Buildings and Utilities	24,883,000
Operation, Repair, and Maintenance of Indian Irrigation Systems	1,611,000
Environmental Quality Services	883,000
Increased Pay Costs	-34,000
Total, Resources Management	$84,316,000

Source: Commission on Appropriations, "Department of Interior and Related Agencies Appropriation Bill, 1973, 92nd Congress, 2nd Session Report No. 92-119

TABLE II

NUMBER OF ACRES IN USE

Land Use Class	Indians	Non-Indians	Number of Acres Idle
Open grazing	27,809,358	5,530,941	644,986
Dry Farming	415,335	1,296,703	60,666
Irrigated	139,887	232,917	113,936

Source: Alan L. Sorkin, American Indians and Federal Aid, Brookings Institution, Washington, D. C. 1971

TABLE III

ECONOMIC DEVELOPMENT ADMINISTRATION EXPENDITURES ON INDIAN RESERVATIONS, 1966-68
(Millions of dollars unless otherwise marked)

Type of Expenditure	1966	1967	1968
Public Works			
Grants	3,660	7,769	8,558
Loans	1,026	2,975	1,450
Business Development			
Loans	2,301	3,797	2,081
Working capital guarantee	720	945	279
Planning Grants (thousands of dollars)	45	98	299
Technical Assistance (thousands of dollars)	212	357	181
Total	7,964	15,941	12,848

Source: U. S. Department of Commerce, 1968 Progress Report of the Economic Development Administration (1968), pp. 37-123, as found in Alan L. Sorkin, American Indians and Federal Aid

TABLE IV

ACCREDITATION STATUS OF SECONDARY FEDERAL INDIAN SCHOOLS, MISSION SCHOOLS, PUBLIC SCHOOLS ENROLLING INDIANS, AND PUBLIC SCHOOLS ENROLLING NON-INDIANS[a]

Type of School	Percent with State Accreditation	Percent with Regional Accreditation
Federal Indian Schools	100	38
Public Schools Enrolling Predominantly Indians[b]	100	64
Mission Schools[c]	82	6
All Indian Schools	96	52
Public Schools Enrolling Predominantly Non-Indians	93	75

SOURCES: Public schools attended by Indians, Leah W. Ramsey, Directory of Public Secondary Day Schools, 1958-59, U. S. Office of Education (1969); mission schools, Diane B. Gertler and Leah W. Ramsey, Non-public Secondary Schools, A Directory 1960-61, U. S. Office of Education (1963); Federal Indian Schools, Interview with Bureau of Indian Affairs official, April 1968; public schools attended by non-Indians, James S. Coleman and others, Equality of Educational Opportunity, U. S. Office of Education (1966), p. 87; all Indian schools, weighted average of components. As found in Alan L. Sorkin, American Indians and Federal Aid, The Brookings Institution, Washington, D. C.

a. Date varies with date of source.

b. Based on a sample of 64 high schools used in Alphonse D. Selinger, The American Indian High School Dropout: The Magnitude of the Problem (Northwest Regional Educational Laboratory, September 1968).

c. Based on a sample of 17 mission high schools

TABLE V

MANPOWER REQUIREMENTS, PUPIL PERSONNEL SERVICES, BUREAU OF INDIAN AFFIARS SCHOOLS, 1968

PROFESSION	ACTUAL STAFF	MANPOWER NEEDS	MANPOWER DEFICIT
Psychologist	1	71[a]	70
School Social Worker	2	120[b]	118
Special Education Worker	7	430[c]	423
Guidance Counselor	173	259[d]	86
Totals	183	880	697

SOURCES: Actual, unpublished tabulation from Bureau of Indian Affairs, Branch of Pupil Personnel Services, needs, author's estimates, as stated in Alan L. Sorkin, American Indians and Federal Aid, Brookings Institution, Washington, D. C.

a. Assumes one psychologist for every 19 off-reservation boarding schools and one psychologist for every 1,000 pupils.

b. Off-reservation boarding schools only. Assumes 80 percent of pupils with problems and 75 cases per worker.

c. Assumes ratio of one teacher per 12 pupils and 10 percent of children in need of services of special educator.

d. Assumes ratio of one guidance counselor per 200 pupils.

TABLE VI

TEACHER TURNOVER, BUREAU OF INDIAN AFFAIRS AND VARIOUS PUBLIC SCHOOLS, SELECTED PERIODS, 1957-67

SCHOOL SYSTEM	YEAR OF SURVEY	TOTAL TEACHER TURNOVER PER YEAR (Percent)
Bureau of Indian Affairs Schools	1959-62	25.4
Bureau of Indian Affairs Schools	1964-67	26.7
All Public Schools	1957-58	17.0
All Public Schools	1959-60	13.4
Great Lakes and Plains	1959-60	17.6
West and Southwest	1959-60	19.8
Alaska	1959-60	34.0
Nebraska	1959-60	34.0
New York	1959-60	12.6
Idaho	1958-63	17.0
Montana	1960-62	28.2
Montana (rural schools only)	1960-62	46.5
Tennessee	1960-62	11.0
Oregon	1961-62	17.0
Connecticut	1964-65	10.9

SOURCE: Bureau of Indian Affairs, Division of Education, "Teacher Turnover Survey for 1964-67" (1968; processed), as stated in Alan L. Sorkin, American Indians and Federal Aid.

TABLE VII

REASONS FOR LEAVING AFTER ONE YEAR, BUREAU OF INDIAN AFFAIRS TEACHERS, 1964-67

Principal Reason for Leaving	Percent of Those Leaving
Isolation	38.6
Return to School	20.1
Economic	13.2
Marriage and Homemaking	13.2
Maternity	5.8
Community Difficulty	4.0
Military Service	1.7
Retired	1.7
Deceased	1.7
Total	100.0

SOURCE: Bureau of Indian Affairs, Division of Education, "Teacher Turnover Survey for 1964-67" (1968; processed), p. 58, as stated in Alan L. Sorkin American Indians and Federal Aid.

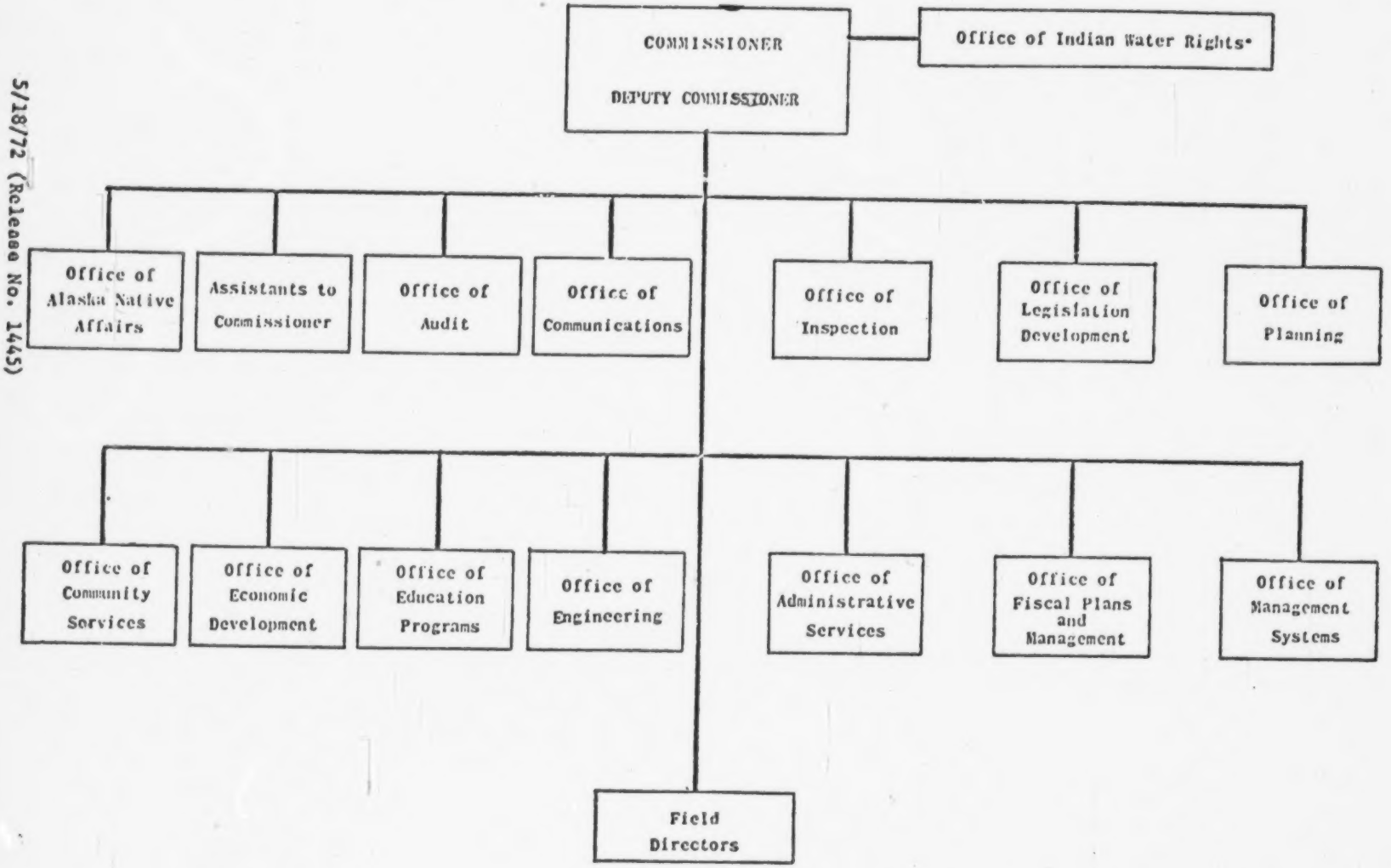
TABLE VIII

OEO COMMUNITY ACTION OBLIGATIONS FOR INDIAN RESERVATIONS, BY PROGRAM, FISCAL YEARS 1965-68
(In Millions of Dollars)

Program	1965	1966	1967	1968
Local Initiative	3.6	10.5	11.7	14.4
Community organization	-	-	3.7	3.6
Home Improvement	-	-	3.6	4.3
Educational Development	n.a.	n.a.	2.2	2.5
Health	-	-	1.0	0.9
Special Programs	-	-	0.7	2.4
Economic Development	-	-	0.5	0.7
National Emphasis	-	1.5	8.4	7.9
Head Start	-	1.5	7.7	6.7
Comprehensive Health Centers	-	-	0.4	0.5
Legal Services	-	-	0.3	0.7
Totals	3.6	12.0	20.1	22.3

SOURCE: Sar A. Levitan, The Great Society's Poor Law: A New Approach to Poverty, John Hopkins Press, 1969, p. 267, as stated in Alan L. Sorkin, American Indians and Federal Aid.

n.a. - Not Available



*Reports directly to the Commissioner who reports directly to the Secretary on Water Rights matters.

5/18/72 (Release No. 1445)

63/65

FOOTNOTES

Part I - Historical Summary

1 / This historical summary is an adaptation from an earlier Commission on Civil Rights publication. See Justice, 1961 United States Commission on Civil Rights Report 5, Government Printing Office, 1969. pp. 115-160, 285-294.

2 / For discussion of early history see 10 Colber's Encyclopedia 453-474 (1958); Fey and McNickle, Indians and Other Americans (1959); "American Indians and American Life ", 311 The Annals of the American Academy of Political and Social Science 1-165 (1957)

3 / McNickle, "Indian-White Relations from Discovery to 1887", 311 The Annals of the American Academy of Political and Social Science 9 (1957)

4 / "Correspondence of Andrew Jackson", ed. John S. Bassett, Vol. 2, pp. 277-82.

5 / Act of May 28, 1830, 4 Stat 411, 25 U. S. C. sec. 174 (1958)

6 / Emphasis added.

7 / Fey and McNickle, "Indians and Other Americans 30"(1959)

8 / U. S. Bureau of Indian Affairs, Commissioner's Annual Report (1872)

9 / Haas, "Legal Aspects of Indian Affairs from 1887 to 1957" 311 The Annals of the American Academy of Political and Social Science (1957). See also "Federal Indian Policies", BIA.

10/ As quoted in Bureau of Indian Affairs "Federal Indian Policies", mimeo (no date) p. 7

11/ Ibid

12/ As reported in Special Subcommittee on Indian Education, Indian Education: A National Tragedy - A National Challenge, 91st Congress, 1st Session, Report No. 91-501, 1969 p. 140

13/ 31 U. S. (6 Pet.) 515,593 (1832).

14/ 30 U. S. (5 Pet.) 1,17 (1831).

15/ Fey and McNickle, op. cit supra note 7, p. 66

16/ Act of March 3, 1871, ch. 126, Stat. 566,25 U. S. C. Sec. 71 (1958)

17/ Bureau of Indian Affairs, "Federal Indian Policies" op cit p. 9

18/ See note 2

19/ Haas, op. cit.

20/ Fey and McNickle, op cit supra note 7, p. 67-8

21/ Ibid, p. 74

22/ Meriam, The Problems of Indian Administration (1928)

23/ Act of June 18, 1934, 48 Stat. 984,988, 25 U. S. C. secs. 461,478 (1958)

24/ "Federal Indian Policies" op cit supra p. 15

25/ Ibid, p. 16

26/ See Justice, op cit supra p. 286, notes 31-32

27/ Ibid

28/ Ibid

29/ Ibid

30/ Indian Health Program 1955-1972, Department Health, Education and Welfare Publication, 72, 502 (1972

31/ "Land Transactions", Senate Committee Print 85th Congress, 2nd Session, 15,18; Lindley, "Why Indians Need Land", Christian Century, Nov. 1957

32/ Ibid

33/ "Federal Indian Policies" op cit p. 18-19

34/ Alan Sorkin, American Indians and Federal Aid, Brookings Institution, Washington, D. C. 1970 p.

35/ See Congressional Record, July 1970, President Nixon's Statement.

FOOTNOTES

Part II Federal Programs

36/ This discussion of Federal programs refers to funds and services for on or near reservation Indians, unless stated otherwise.

37/ See Part I, Historical Summary of Federal Policy

38/ See U. S. Commission on Civil Rights Staff Report, "Legal Status of American Indians," November 1972

39/ Ibid

40/ See "Public Safety" section of this paper.

41/ U. S. Commission on Civil Rights, Justice Report No. 5, 1961, p. 126

42/ Ibid

43/ Ibid p. 121

44/ Ibid

45/ Ibid p. 128

46/ Ibid p. 130

47/ Ibid

48/ Ibid p. 124

49/ "Indians and the Federal Government", Bureau of Indian Affairs, Department of the Interior, October 1966, Mimeo.

50/ Alan Sorkin, American Indians and Federal Aid, Brookings Institution, Washington, D. C., 1971 p. 66

51/ Ibid p. 67

52/ Ibid p. 70

53/ Ibid pp. 71-72

54/ "Indians and the Federal Government" op. cit.

55/ Ibid

56/ Ibid

57/ Sorkin, pp. 79 and 90

58/ Ibid p. 80

59/ The Economic Development Administration was orginially called the Area Development Agency.

60/ Sorkin p. 79

61/ Ibid

62/ Ibid p. 85

63/ Ibid p. 91-93

64/ Ibid p. 93

65/ Information furnished by EDA, October 1972

66/ Sorkin, p. 97 and "Indians and the Federal Government."

67/ "Indians and the Federal Government"

68/ Sorkin p. 98

69/ "Indians and the Federal Government"

70/ Ibid

71/ Ibid

72/ Sorkin p. 107

73/ "Indians and the Federal Government"

74/ Sorkin p. 108

75/ Ibid

76/ Sorkin p. 114-115

77/ Ibid p. 121-127

78/ Ibid

79/ "Annual Statistical Survey 1971", Department of Employment Assistance, BIA, Washington, D. C. mimeo

80/ NAACP Legal Defense and Educational Fund, Inc., An Even Chance, Graphics 4, Annandale, Va. 1971

81/ "Indians and the Federal Government"

82/ Ibid

83/ About 12,000 Indian children between the ages of 6 and 18 did not attend school at all.

84/ Sorkin p. 22

85/ An Even Chance p. 12F

86/ Lee J. Sclar, "Participation by Off-Reservation Indians in Programs of the BIA and IHS", California Indian Legal Services, mimeo (no date)

87/ "An Even Chance" p. 15

88/ Ibid. p. 40

89/ Ibid. p. 5

90/ Ibid. p. 51

91/ Sorkin p. 167

92/ Telephone interview with Headstart officials, Oct. 26, 1972

93/ "Indians and Federal Programs"

94/ Sorkin p. 37

95/ Ibid. p. 39

96/ Comptroller General of the U. S., "Opportunity to Improve Indian Education In Schools Operated By the Bureau of Indian Affairs", Report to Congress, April 27, 1972, p. 1

97/ Sorkin p. 26

98/ Special Senate Subcommittee on Indian Education," Indian Education: A National Tragedy - A National Challenge", 91st Congress Report #91-501, November 1969

99/ Sorkin p. 36

100/ Ibid. pp 40-45

101/ Ibid pp 46-48

102/ Ibid p. 26

103/ Ibid p. 162-63

104/ Ibid p. 163

105/ Ibid

106/ Ibid

107/ Ibid pp. 164-165

108/ Ibid pp. 165-168

109/ Ibid

110/ Ibid p. 166

111/ Ibid p. 167

112/ Telephone conversation with OEO Budget Analyst, Oct. 26, 1972

113/ Sorkin, p. 51. Also, the Syder Act, 25USC, Sec. 13

114/ Sorkin, p. 51

115/ Information furnished by the Indian Health Service, 1972

116/ Indian Health Programs, 1955-1972, Department of Health, Education, and Welfare, Publication No. 72,502. 1972

117/ Sorkin p. 167

118/ Indian Health Programs

119/ Highlights of the Indian-Health Program, DHEW, Sept. 1971. In a research paper entitled "Participation by Off-Reservation Indians in Programs of the Bureau of Indian Affairs and the Indian Health Service," the Acting Director of the California Indian Legal Services documents that both these Federal agencies do serve off-reservation Indians, that such service is legal, and that off-reservation have as great a moral claim to such service as reservation Indians. He cites the Snyder Act (25 USC Sec. 13) as the legal basis for providing services on an equal basis for all Indians. He points out, however, that both BIA and IHS are granting preferential service treatment to reservation Indians, including the granting of contract care.

120/ Presentation made to the Phoenix Indian Health Board, Feb. 1972

121/ Sorkin,pp. 172-176

122/ Ibid

123/ Ibid

124/ Ibid

125/ Ibid

126/ Indians and the Federal Government

127/ Ibid

128/ Sorkin, 82-84

129/ Ibid

130/ Indians and the Federal Government

131/ Ibid

132/ Sorkin, p. 83

133/ Act of March 3, 1885, 23 Stat. 385, 18 U. S. C. Sec. 1153 (1958) 35 Stat. 1151; 45 Stat. 337, 18 U. S. C Sec. 1153 (1958)

134 /"Indians and the Federal Government"

135 / Ibid

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FOOTNOTES

Part III - The Bureau of Indian Affairs

136/ Stephen A. Langone, "A Statistical Profile of the Indian: The Lack of Numbers", Toward Economic Development for Native American Communities, Joint Economic Committee, 91st Congress, 1st Session, (1969) p. 4

137/ Bureau of Indian Affairs

138/ Ruiz v. Morton, U. S. Court of Appeals, 9th Circuit, 462F 2d818, (1972)

139/ U. S. Commission on Civil Rights, Justice,Washington, D. C. (1969) pp. 123-24.

140/ Staff Interviews, October 1972, on file with U. S. Commission on Civil Rights

141/ Ibid

142/ Ibid

143/ See Justice pp. 120-124

144/ Ibid, p. 124

145/ As cited in Alvin M. Josephy, The American Indian and the Bureau of Indian Affairs, 1969: A Study with Recommendations, p. 81-82

146/ Department of the Interior, Department Manuel, mimeo, May 18, 1972 p. 130

147/ Department of the Interior and Related Agencies Appropriation Bill 1973, U. S. House of Representatives, 92nd Congress, 2nd Session, Report No. 92-119. Confirmed by telephone, Bureau of Indian Affairs, Oct. 27, 1972

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